

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

BENJAMIN A. ROARK, #04243-003

§

VS.

§

CIVIL ACTION NO. 5:14cv21

UNITED STATES OF AMERICA

§

ORDER OF DISMISSAL

Plaintiff Benjamin A. Roark, an inmate confined at F.C.I. Texarkana, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered lawsuit pursuant to the Federal Tort Claims Act (“FTCA”). The complaint was directly assigned to United States Magistrate Judge Caroline M. Craven, who issued a Report and Recommendation concluding that the United States’ motion to dismiss should be granted. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections raised by the Plaintiff are without merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #25) is **ADOPTED**. It is further

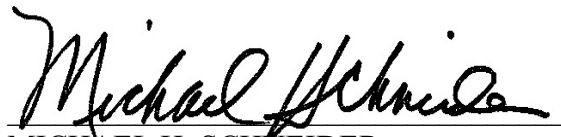
ORDERED that the United States’ motion to dismiss under Rule 12(b)(1) and 12(b)(6) (docket #20) is **GRANTED** and that the lawsuit is **DISMISSED WITH PREJUDICE**. It is finally

ORDERED that all motions not previously ruled on are **DENIED**.

The Plaintiff is hereby informed that the decision dismissing his lawsuit pursuant to Rule 12(b)(6) counts as a strike for purposes of 28 U.S.C. § 1915(g). He is cautioned that once he accumulates three strikes, he may not proceed IFP either in any civil action or in any appeal of a civil action which is filed while he is incarcerated or detained in any facility, unless he is under imminent danger of serious physical injury.

It is SO ORDERED.

SIGNED this 2nd day of October, 2014.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE